

USSN: 10/087,573

Attorney Docket: I-2001.004 US

Response to Office Action of September 9, 2005

## **REMARKS**

The amendments made herein and in the accompanying submission of the Substitute Sequence Listing comply with requirements of form expressly set forth in the Office Action. Accordingly, it is believed that the amendments bring the Application into a condition for allowance. Applicants respectfully request that the comments made herein be considered and the amendments be entered.

### **Amendments**

The amendments to page 25, line 25 and page 38, line 26 are made to correct obvious typographical errors. All other amendments are discussed below. Applicants believe that the amendments do not introduce new matter and their entry is respectfully requested.

### **Use of Hyperlinks**

Applicants thank the Examiner for pointing out use of hyperlinks in the specification. Office Action, page 2. The amendments above replace the hyperlink with a description of where the same information can be located. It is believed that no new matter is introduced by this amendment and that the Examiner's objection is rendered moot.

### **Sequence Identification Numbers in the Text of the Specification**

The Examiner has indicated that pages 20, 21 and 28 recite sequences not identified by sequence identification numbers. Office Action, page 2. Applicants note that identification numbers for sequences on pages 20 and 21 were included by amendments filed on June 13, 2005.<sup>1</sup> Although Applicants intended to also include an identification number for the sequence appearing on page 28, the previously filed amendment inadvertently referred to page 37, line 32

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<sup>1</sup> The Response was mailed with a Certificate of Mailing Under 37 C.F.R. § 1.8 on June 13, 2005; and received by OIPE on June 16, 2005.

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instead of page 28, line 32.<sup>2</sup> Applicants have corrected this unintended mistake with the above amendments.<sup>3</sup> Applicants also provide herewith amendments to include sequence identification numbers in the brief description of the drawings. As discussed below, Applicants believe that none of this information constitutes new matter.

### **Sequence Identification Numbers in the Figures**

The Examiner has advised Applicant to insert sequence identification numbers either in the figures or into the brief description of the drawings. Office Action, page 2. Applicants respectfully point out that replacement sheets for figures 1-3 identifying the sequences depicted therein were filed on June 13, 2005. However, Applicants have also provided by way of the above amendments inclusion of the sequence identification numbers in the brief description of the drawings. Accordingly, this objection is believed to be rendered moot.

### **Substitute Sequence Listing**

The Examiner indicates that the sequence listing fails to comply with 37 C.F.R. §1.821-§1.825. Office Action, page 3. Applicants direct the Examiner to a Substitute Sequence Listing submission which accompanies this filing.

### **Unclear Specification**

The Examiner indicates that “the specification submitted is not clear and clean as several lines in the specification are unreadable and smudged out.” Office Action, page 5. Applicants note that the specification available as part of the Image File Wrapper appears readable without any smudges and are providing a courtesy copy herewith.

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<sup>2</sup> See Response filed June 13, 2005, page 5, last paragraph.

<sup>3</sup> Applicants also note that the previous amendment identified this sequence as “SEQ. ID. NO.: 14,” which was an inadvertent mistake. This sequence should be identified as “SEQ. ID. NO.: 16,” and has been added to the sequence listing. Because this sequence was in the application as filed, its inclusion in the sequence listing does not constitute new matter.

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**Claim Rejections Under 35 U.S.C. § 102(b)**

The Examiner has maintained the rejection of claims 32 and 64-67 as allegedly being anticipated by Schetters *et al.* Office Action, page 3. Applicants respectfully traverse this rejection.

Claim 32 is directed to an isolated *Babesia canis* associated protein, the protein having a molecular weight of about 15 kD when determined by SDS-gel electrophoresis under reducing conditions and comprising an amino acid sequence as depicted in SEQ ID NO:2. Applicants have previously asserted and demonstrated that Bcvir15 (i.e., SEQ ID NO: 2) is not an exoantigen and that it is not present in the culture supernatant described by Schetters. *See* Applicants' Reply filed June 13, 2005. Consequently, the publication of the supernatant does not, and cannot anticipate Bcvir15 of the present application.

Accordingly, Applicants request that the rejection be reconsidered and withdrawn.

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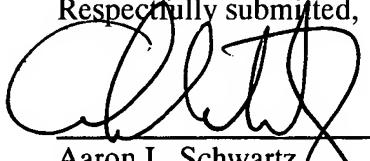
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### ***CONCLUSION***

Applicants believe that this Reply addresses all issues and that the Application is currently in a condition for allowance. Should the Examiner believe that a conference would be helpful in advancing the prosecution of this application, the Examiner is invited to telephone Applicants' attorney at the number below.

Applicants hereby request a two-month extension to respond to the September 9, 2005 Office action, and authorize the Commissioner to charge the fee for this extension to Deposit Account No. **02-2334**. Applicants believe that no additional fee is due in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **02-2334**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **02-2334**.

Respectfully submitted,



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